



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC and FF

Introduction

This hearing was convened in response to an Application for Dispute Resolution, in which the Tenant applied for a monetary Order for money owed or compensation for damage or loss and to recover the filing fee from the Landlord for the cost of filing this application.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions to me.

The Landlord submitted documents to the Residential Tenancy Branch, copies of which were served to the Tenant. The Tenant acknowledged receipt of the Landlord's evidence and it was accepted as evidence for these proceedings. The Tenant submitted documents to the Residential Tenancy Branch, copies of which were served to the Landlord. The Landlord acknowledged receipt of the Tenant's evidence and it was accepted as evidence for these proceedings.

Issue(s) to be Decided

Is the Tenant entitled to compensation for property that was disposed of by the Landlord?

Background and Evidence

The Landlord and the Tenant agree that this tenancy began on September 01, 2012; that it ended on August 31, 2013; and that the Tenant was provide with a storage locker as one of the terms of the tenancy agreement.

The Landlord and the Tenant agree that on January 27, 2013 the Tenant emailed a female who was acting on behalf of the Landlord who had entered into the tenancy agreement with the Tenant and asked if there were any storage lockers available for use. The parties agree that this female advised the Tenant, via email, that there were

none available; that if they find an empty storage locker they can check with the occupant of the rental unit with the corresponding number of the storage unit; and “if they are okay you can use it but if the tenancy changes you would have to give it back”.

The Tenant stated that they subsequently determined that storage locker #104 was empty and that rental unit #104 was vacant, so they moved their property into that locker sometime in March of 2013. He stated that the Tenant did not inform the Landlord that they had moved property into the storage unit; that the Landlord never asked the Tenant if they had moved property into this storage unit; and that the Tenant did not place any identifying information on the storage locker that would indicate who the property belonged to. The Tenant contends that the Landlord should have known who the property belonged to because the Tenant had previously informed the female who was acting on behalf of the previous Landlord that they would like additional storage.

The Landlord stated that the current Landlord purchased the residential complex in April of 2013; that rental unit #104 was vacant when the property was purchased; that rental unit #104 was rented on April 15, 2013; that storage locker #104 was emptied in April 15, 2013 in preparation for the new tenant; that when it was emptied the Landlord believed the property belonged to the Tenant who had vacated rental unit #104 in January of 2013; that no notice was posted regarding the decision to dispose of the property; and that the property was disposed of.

Analysis

I find that the Tenant has submitted insufficient evidence to establish that they had authority to store personal property in storage locker #104. In reaching this conclusion, I was influenced by the email, dated January 27, 2013, in which a female agent for the previous landlord advised the Tenant that they could use any empty storage locker providing they obtain permission from the occupant of the rental unit to whom the locker is assigned.

The undisputed evidence is that the rental unit #104 was vacant when the Tenant moved their property into storage locker #104. I therefore find that the Tenant did not have permission from the occupant of unit #104 to use this particular storage locker.

There is no evidence that the Tenant approached a representative for the Landlord asking for permission to use storage locker #104 once the Tenant determined rental unit #104 was vacant. I therefore find that the Tenant did not have permission from the Landlord to use storage locker #104.

As the Tenant did not have permission to use storage locker #104, I find that the Landlord did not have a duty to care for the items stored in the locker. I therefore dismiss the Tenant's claim for compensation for the property that was discarded from storage locker #104.

Section 7(2) of the *Act* requires a party making a claim for compensation for loss to do whatever is reasonable to minimize their loss. In my view, the Tenant was obligated to inform the Landlord that they owned the property in storage locker #104, either by posting a notice on the door of the locker or by informing the Landlord in writing. Even if ownership of the building had not changed, I find it is unreasonable to expect a landlord to determine that the property belonged to these Tenants simply because they had previously asked about additional storage.

As the Landlord had not been informed that the Tenant was storing property in storage locker #104, I find that it was reasonable for the Landlord to conclude that it was abandoned by the previous tenant.

Conclusion

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: September 17, 2013

Residential Tenancy Branch

